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8
9 UNITED STATES BANKRUPTCY COURT
10 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

11 In re

12 THE LITIGATION PRACTICE GROUP P.C.,
13

14 Debtor.
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20
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Case No: 8-23-bk-10571-SC

Chapter 11

LIQUIDATING TRUSTEE’S REPLY IN
SUPPORT OF SECOND MOTION FOR
ORDER ESTABLISHING STREAMLINED
PROCEDURES GOVERNING NEW
ADVERSARY PROCEEDINGS BROUGHT
BY TRUSTEE’S GENERAL COUNSEL

Hearing:

Date: October 23, 2025

Time: 1:30 p.m.

Judge: Hon. Scott C. Clarkson

Place: Courtroom 5C

411 W. Fourth Street

Santa Ana, CA 92701

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1 TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY JUDGE,
2 THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED PARTIES:

3 Richard A. Marshack, in his capacity as liquidating trustee of the LPG Liquidation Trust
4 (“Trustee”), hereby submits this reply (“Reply”) in support of the Second Motion for Order
5 Establishing Streamlined Procedures Governing New Adversary Proceedings Brought by Trustee’s
6 General Counsel, filed on October 1, 2025, as Docket No. 2525 (“Motion”).¹ In support of the
7 Reply, the Trustee represents as follows:

8 **1. Introduction**

9 The Motion is the Trustee’s second procedures motion. The first motion pertained to 140
10 adversary proceedings and drew only one response, which was subsequently withdrawn. The first
11 procedures order has resulted in Trustee’s counsel either settling, dismissing, or taking the default of
12 97 out of 140 cases. The Motion pertains to an additional 24 adversary proceedings. Out of all the
13 defendants subject to the two motions, only Joe-Max Moore and Martha Moore (together, the
14 “Moore’s”) oppose the proposed procedures. As an initial note, to the extent the Moore’s oppose the
15 Motion on behalf of any parties but themselves, they lack standing to do so. As to the merits, for the
16 reasons explained in more detail below, the Moore’s fail to identify any provisions of the Second
17 Procedures Order that are “problematic” like they suggest. The Trustee requests that the Court
18 overrule the Moore’s arguments and grant the Motion in its entirety.

19 **2. Factual Background**

20 On October 1, 2025, as Docket No. 2525, the Trustee filed the Motion.

21 On October 2, 2025, the Trustee filed an “Affidavit of Service” regarding the Motion. Docket
22 No. 2530. The Affidavit of Service provides evidence that the Trustee served the Motion on the
23 following parties:

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28 ¹ All capitalized terms not otherwise defined in this Reply shall have the meaning ascribed to them in the Motion.

| Adversary Title | Defendant(s) | Adversary Number | Served in Affidavit of Service |
|--|--|-------------------------|---------------------------------------|
| Marshack v. HP IT Services Incorporated | HP IT Services Incorporated | 8:25-ap-01272-SC | X |
| Marshack v U.S. Bancorp, FKA Union Bank | U.S. Bancorp, fka Union Bank, a Delaware Corporation | 8:25-ap-01273-SC | X |
| Marshack v Vista Capital Management LLC | Vista Capital Management LLC | 8:25-ap-01274-SC | X |
| Marshack v Debt Dissolution LLC | Debt Dissolution LLC | 8:25-ap-01275-SC | X |
| Marshack v Innovative Staffing LLC | Innovative Staffing LLC | 8:25-ap-01276-SC | X |
| Marshack v. Galveston Newspapers Inc., dba Coast Monthly | Galveston Newspapers Inc., dba Coast Monthly | 8:25-ap-01277-SC | X |
| Marshack v Dodger Tickets LLC | Dodger Tickets LLC | 8:25-ap-01278-SC | X |
| Marshack v Baryeh Investment Inc | Baryeh Investment Inc | 8:25-ap-01279-SC | X |
| Marshack v. DS Diversity, LLC; DS Diversity LLC | DS Diversity, LLC; DS Diversity LLC | 8:25-ap-01292-SC | X |
| Marshack v. Efficient Money LLC | Efficient Money LLC | 8:25-ap-01281-SC | X |
| Marshack v. Hunter Lee Thompson 2011 Trust | Hunter Lee Thompson 2011 Trust | 8:25-ap-01280-SC | X |

| | | | | |
|----|-------------------------|--------------------------|------------------|----|
| 1 | Marshack v. JG Holdings | JG Holdings LLC | 8:25-ap-01290-SC | X |
| 2 | LLC | | | |
| 3 | Marshack v. Joe-Max | Joe-Max Moore, Martha | 8:25-ap-01289-SC | XX |
| 4 | Moore, Martha Moore, | Moore, Carl Moore | | |
| 5 | Carl Moore | | | |
| 6 | Marshack v. Joseph | Joseph Gabra | 8:25-ap-01284-SC | X |
| 7 | Gabra | | | |
| 8 | Marshack v. Jeneé Kurka | Jeneé Kurka (aka Jeneé | 8:25-ap-01294-SC | XX |
| 9 | (aka Jeneé Devault), | Devault), Robert Devault | | |
| 10 | Robert Devault | | | |
| 11 | Marshack v. Liamia | Liamia Group Inc | 8:25-ap-01288-SC | X |
| 12 | Group Inc | | | |
| 13 | Marshack v. Longclaw, | Longclaw, Inc. | 8:25-ap-01287-SC | X |
| 14 | Inc. | | | |
| 15 | Marshack v. Nader | Nader Sepehr | 8:25-ap-01282-SC | X |
| 16 | Sepehr | | | |
| 17 | Marshack v. Oathkeeper, | Oathkeeper, Inc. | 8:25-ap-01283-SC | X |
| 18 | Inc. | | | |
| 19 | Marshack v. Pathways | Pathways Financial Inc. | 8:25-ap-01286-SC | X |
| 20 | Financial Inc. (and | (and Pathways Financial) | | |
| 21 | Pathways Financial) | | | |
| 22 | Marshack v. Pitney | Pitney Bowes Inc. | 8:25-ap-01293-SC | X |
| 23 | Bowes Inc. | | | |
| 24 | Marshack v. South Coast | South Coast Consulting | 8:25-ap-01285-SC | X |
| 25 | Consulting Inc. | Inc. | | |
| 26 | Marshack v. iMerge LLC | iMerge LLC | 8:25-ap-01291-SC | X |

| | | | | |
|---|----------------------|----------------------|------------------|---|
| 1 | Marshack v. JPMorgan | JPMorgan Chase Bank, | 8:25-ap-01298-SC | X |
| 2 | Chase Bank, National | National Association | | |
| 3 | Association | | | |

4 On October 9, 2025, the Moores filed an opposition to the Motion (“Opposition”). Docket
5 No. 2533.

6 **3. Legal Argument**

7 **A. The Moores lack standing to bring the Opposition on behalf of any** 8 **defendants but themselves. All other defendants can be deemed to** 9 **have consented to entry of an order granting the Motion.**

10 Standing is a threshold issue in every federal litigation. *Savage & Assocs., P.C. v. Mandl (In*
11 *re Teligent, Inc.)*, 417 B.R. 197, 209 (Bankr. S.D.N.Y. 2009). The question of standing is “whether
12 the litigant is entitled to have the court decide the merits of the dispute or of the particular issues.”
13 *Id.* at 209-10 (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). The inquiry involves both
14 constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise. *Id.* at
15 210 (citing *Warth*, 422 U.S. at 498). Constitutional standing “imports justiciability:” whether the
16 plaintiff has made out a “case or controversy” between himself and the defendant within the
17 meaning of Article III. *Id.* (quoting *Warth*, 422 U.S. at 498). To establish Article III standing, a party
18 must show:

- 19 (1) An injury in fact that is actual or imminent rather than conjectural or hypothetical;
- 20 (2) The injury is “fairly traceable” to the conduct complained of; and
- 21 (3) It is likely, as opposed to “speculative,” that the injury will be redressed by a favorable
22 decision.

23 *Id.* (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)); *see also Republic of the Marsh.*
24 *Is. v. United States*, 865 F.3d 1187, 1199 (9th Cir. 2017) (noting that constitutional standing is
25 derived from the “case and controversy” requirement of Article III of the Constitution and requires a
26 plaintiff to demonstrate “injury in fact, causation, and redressability”).

1 Prudential standing refers to the requirement that even when the plaintiff has alleged injury
2 sufficient to meet the “case or controversy” requirement, the plaintiff generally must assert his own
3 legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third
4 parties. *In re Teligent*, 417 B.R. at 210 (citing *Warth*, 422 U.S. at 499).

5 The party asserting that it has standing bears the burden of establishing both constitutional
6 and prudential standing. *Cty. of Imperial Treasurer-Tax Collector v. RW Meridian, LLC (In re RW*
7 *Meridian LLC)*, 2017 Bankr. LEXIS 4172, at *4 (B.A.P. 9th Cir. Dec. 6, 2017); *see also Veal v. Am.*
8 *Home Mortg. Servicing, Inc. (In re Veal)*, 450 B.R. 897, 907 n.11 (B.A.P. 9th Cir. 2011) (same). The
9 “jurisdictional issue of standing can be raised at any time.” *Ctr. for Biological Diversity v.*
10 *Kemphorne*, 588 F.3d 701, 707 (9th Cir. 2009); *see also United States v. 7501 N.W. 210th St.*, 437
11 Fed.Appx. 754, 757-58 (10th Cir. 2011) (explaining that constitutional standing is a “threshold
12 jurisdictional question” that the court may raise “at any time”).

13 Here, to the extent that the Moores bring an objection on behalf of any parties but
14 themselves, they do not even try to establish standing to do so. Nor can they. The Moores cannot
15 possibly show that they would suffer an injury in fact due to the proposed procedures as to parties
16 other than themselves, and thus they cannot establish the second and third elements of constitutional
17 standing either. Further, the Moores cannot establish prudential standing to the extent that they assert
18 the legal rights and interests of others.

19 The Moores specifically argue that “the Court may wish to consider whether it is appropriate
20 to bind defendants in other cases who have not yet been served or who have not yet appeared in the
21 respective adversary proceedings recently filed by the Trustee.” Opposition at 4. All the defendants
22 to the Second Adversary Actions have been served with the summons and complaints. More
23 importantly, for the present dispute, the Trustee served the Motion on each of the named defendants
24 to the Second Adversary Actions, and only the Moores elected to file a response. Pursuant to Local
25 Bankruptcy Rule 9013-1(h), the Court may construe the defendants’ lack of opposition to the Motion
26 as consent to its granting. And, it may well be that the other defendants did not oppose the Motion
27 because they wish to be subject to the terms of the Second Procedures Order.

B. Good cause exists for the Court to grant the Motion.

It is unsurprising that the vast majority of the defendants did not oppose the Motion. Good cause to grant the Motion exists for the reasons set forth therein. Further, as discussed in the Motion, on April 1, 2025, the Trustee filed a similar motion to establish streamlined procedures regarding the First Adversary Actions (“First Procedures Motion”). Docket No. 2356. The Trustee received only one response to the First Procedures Motion, which was resolved by stipulation and subsequently withdrawn. Docket Nos. 2381, 2390-2.²

The procedures proposed in the First Procedures Motion and implemented by the First Procedures Order have proven very successful. The Trustee has either settled, dismissed, or taken the default of 97 out of 140 cases regarding the First Adversary Actions. Motion at 15 (Marshack Decl., ¶ 13).

The Moores fail to show that any of the identified provisions in their Opposition are, in fact, “problematic.” The Trustee will address each of their objections in the same order as set forth in the Opposition.

(1) The Moores fail to identify any provision that “restrict[s] the parties’ ability to communicate with the Court.” They cite no authority in support of their First Amendment argument (beyond a vague reference to the “First Amendment” broadly). And, the Trustee has not suggested that any of the defendants are vexatious litigants such that *Ringgold-Lockhart* would apply. If anything, the proposed Second Procedures Order grants the defendants broader rights because they can agree to extend their response deadline up to 14 days without the need for a stipulation filed with the Court. The Second Procedures Order preserves the right for the parties to stipulate to an extension of the response date beyond 14 days from the date on the summons.

(2) The Second Procedures Order does not restrict the parties’ ability to litigate and engage in formal discovery but simply imposes a stay on all litigation and formal discovery

² Had counsel for the Moores contacted Trustee’s counsel to discuss the Second Procedures Order, Trustee’s counsel would have gladly discussed reasonable procedures specific to the Moores’ adversary proceeding. The Trustee remains willing to do so. Although for the reasons set forth herein, the Trustee does not agree that the so-called “Problematic Provisions” are, in fact, problematic.

1 through January 14, 2026, at which time litigation and formal discovery may proceed if
2 the cases are not yet resolved.

3 (3) The Moores claim that the “successors and assigns” are “unknown,” Opposition at 2, but
4 the Second Procedures Order identifies them as “Plaintiffs in the Second Adversary
5 Actions.” Motion at 8, 24. The use of the term “alleged claims” clearly means the claims
6 that were actually alleged in the Second Adversary Actions. Section B(iv)(Defendants)(b)
7 of the Second Procedures Order is clear as written, and no other defendants to the First
8 Adversary Actions or the Second Adversary Actions seem to have had difficulty
9 understanding the language. And, to the extent the Moores oppose contempt proceedings
10 that have not been commenced, Opposition at 2-3 (citing *FTC v. Affordable Media, LLC*,
11 179 F.3d 1228, 1239 (9th Cir. 1999)), such dispute is not ripe.

12 (4) Section B(iv)(Defendants)(c) applies only to the extent any defendant claims that he or
13 she is financially incapable of responding to the demand in the complaint and wants the
14 Trustee to consider such claim in connection with settlement negotiations. Motion at 24.
15 The Moores do not suggest that this provision would even apply to them. And, in *Gomez*,
16 the court prohibited a plaintiff from seeking information regarding the defendant’s
17 personal assets where the plaintiff had “not yet made Defendant’s finances an issue.”
18 *Gomez v. Hernandez*, 2020 U.S.Dist.LEXIS 210983, at *13 (C.D. Cal. Oct. 9, 2020). The
19 court specifically found it “difficult to see how Defendant’s financial information could
20 possibly demonstrate, or reasonably lead to information demonstrating, whether
21 Defendant operated her vehicle negligently.” *Id.* Here, in contrast, Section
22 B(iv)(Defendants)(c) applies only if a defendant places his or her financial situation at
23 issue.³

24
25 ³ To the extent the Moores assert a right to privacy in personal financial records, the Trustee highlights that a similar
26 argument was raised by the defendants in *McBeth v. Sahani*, Case No. 9:18-ap-01040-DS, ECF No. 307 (“Motion to
27 Quash Subpoenas to Financial Institutions; or, in the Alternative, Motion for Protective Order Re: Subpoena for
28 Testimony and Production”). There, the defendants sought to quash third-party subpoenas for financial records, arguing,
inter alia, that they had a “right to financial privacy.” *McBeth v. Sahani*, Case No. 9:18-ap-01040-DS, ECF No. 307, at
14-16. The court, the Hon. Deborah J. Saltzman presiding, denied the motion to quash. *McBeth v. Sahani*, Case No.
9:18-ap-01040-DS, ECF No. 356 (Bankr. C.D. Cal. Dec. 23, 2022) (“Order Denying Motion to Quash Subpoenas to
Financial Institutions; or, in the Alternative, Motion for Protective Order Re: Subpoena for Testimony and Production”).

(5) Pursuant to FRCP 26(b)(1), made applicable by FRBP 7026, parties may obtain discovery that is, *inter alia*, “proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” The Moores fail to address how the proposed deadlines identified in Section B(v) of the Second Procedures Order implicate any of the proportionality factors.

(6) Section B(ix) of the Second Procedures Order provides: “The failure of any party to diligently prosecute their claims or defenses, including failing to timely comply with the Second Procedures Order, *may* result in the complaint or answer being stricken. *Upon notice and a hearing*, a party’s failure to appear at the Joint Conference or otherwise comply with the Second Procedures Order, *may* result in any response to the complaint being stricken and their default being entered.” Motion at 25 (emphasis added). The language that the Moores propose be added is unnecessary, as parties will be afforded notice and a hearing.

4. Conclusion

For the reasons set forth above and in the Motion, the Trustee respectfully requests that this Court overrule the Moores’ opposition and enter an order granting the Motion in its entirety.

DATED: October 16, 2025

MARSHACK HAYS WOOD LLP

By: /s/ Bradford N. Barnhardt
D. EDWARD HAYS
AARON E. DE LEEST
BRADFORD N. BARNHARDT
Attorneys for Chapter 11 Trustee and
Liquidating Trustee, RICHARD A.
MARSHACK

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt, Irvine, CA 92620.

A true and correct copy of the foregoing document entitled: **LIQUIDATING TRUSTEE'S REPLY IN SUPPORT OF SECOND MOTION FOR ORDER ESTABLISHING STREAMLINED PROCEDURES GOVERNING NEW ADVERSARY PROCEEDINGS BROUGHT BY TRUSTEE'S GENERAL COUNSEL** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 16, 2025**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **October 16, 2025**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR – MAIL REDIRECTED TO TRUSTEE

THE LITIGATION PRACTICE GROUP P.C.
17542 17TH ST
SUITE 100
TUSTIN, CA 92780-1984

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 16, 2025**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA PERSONAL DELIVERY
PRESIDING JUDGE'S COPY

HONORABLE SCOTT C. CLARKSON
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RONALD REAGAN FEDERAL BUILDING AND COURTHOUSE
411 WEST FOURTH STREET, SUITE 5130 / COURTROOM 5C
SANTA ANA, CA 92701-4593

VIA EMAIL:
MONITOR

Nancy Rapoport
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☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 16, 2025
Date

Cythia Bastida
Printed Name

/s/ Cynthia Bastida
Signature

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